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Comptroller General
of the United States
Washington, D.C. 20548

Decision

Matter of: Alpha Technical Services, Inc.
File: B-243322; B-243715
Date: July 15, 1991

John P. Antony, Esq. for the protester.
Charles J. McManus, Esq., Jonathan H. Kosarin, Esq., and Gary Van Osten, Esq., Department of the Navy, for the agency.
Jacqueline Maeder, Esq., and Paul Lieberman, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

Proposals delivered by U.S. Postal Service Express Mail to agency approximately 2 hours before time established for receipt of proposals but not routed to contracting office until after time set for receipt of proposals were properly rejected as late where envelopes did not contain the solicitation numbers and times specified for receipt of proposals as required by solicitations. Lack of identification markings rather than agency mishandling was paramount cause of late deliveries.

DECISION

Alpha Technical Services, Inc. protests the rejection of its offers as late under request for proposals (RFP) No. N00104-91-R-CA78 (RFP-CA78) for the acquisition of a pump drive assembly and under RFP No. N00104-91-R-CB52 (RFP-CB52) for the acquisition of 17 carrier assemblies. Both solicitations were issued by the Navy Ships Parts Control Center (SPCC), Mechanicsburg, Pennsylvania. Alpha contends that its proposals should be considered by SPCC because both proposals were timely received and signed for by a SPCC mailroom employee. Alternatively, Alpha argues that, if the proposals were late, the late receipt was the result of government mishandling.

We deny the protests.

Under both solicitations, proposals were required to be addressed to:

Department of the Navy
Navy Ships Parts Control Center
Contracting Department (Code 02)
Building 410, South End, Bay K-30
5450 Carlisle Pike, P.O. Box 2080
Mechanicsburg, Pennsylvania 17055-0788

The cover sheet to both RFPs also specifically instructed offerors that "[w]hen submitting your reply the envelope must be plainly marked with the solicitation number, as shown above and the date and local time set for bid opening or receipt of proposals in the solicitation document." (Emphasis added.)

Proposals for RFP-CA78 were due by Thursday, January 10, 1991, at 4 p.m. Alpha mailed its proposal for this RFP by U.S. Postal Service Express Mail at 5:34 p.m. on January 9. It addressed the envelope:

Navy Ships Parts Control Center
5450 Carlisle Pike
Building 410, South End
Bid Room, Bay K-30
Mechanicsburg, PA 17055-0788
ATTN: Eric Kreider

The proposal was received in the SPCC mailroom in building 112 at 2:15 p.m. on January 10 and signed for by a SPCC mailroom clerk.

Proposals for RFP-CB52 were due by Friday, March 15, at 4 p.m. Alpha mailed its proposal for RFP-CB52, again by U.S. Postal Service Express Mail, at 12:15 p.m. on March 14. The envelope was addressed as follows:

Department of the Navy
Navy Ships Parts Control Center
Contracting Department (Code 02)
Building 410, South End, Bay K-30
5450 Carlisle Pike, P.O. Box 205
Mechanicsburg, PA 17055-0788

The words "Bid Room" were handwritten under the address. The proposal was received at the SPCC mailroom in Building 112 at 2:15 on March 15.

The SPCC mailroom routinely makes two mail deliveries to the bid room each day: a morning delivery at approximately 10 a.m. and an afternoon delivery at approximately 1 p.m. The mailroom also provides priority handling of bids and proposals

which arrive shortly before their due date and time. Since neither envelope was clearly marked with the solicitation number or the time and date set for receipt of proposals, the mailroom personnel were unaware of the need for immediate delivery, and delivered both proposals by standard procedure. The proposal for RFP-CA78 did not reach the bid room until 10:53 a.m. on January 11; the proposal for RFP-CB52 did not reach the bid room until 10:42 a.m. on March 18. Consequently, both proposals were rejected as late.

Alpha contends that both of its proposals were timely received since both were received at the SPCC installation before the time set for receipt of proposals, and because an agency official signed the post office receipt for the proposals. Alternatively, Alpha argues that if its proposals were received late at the bid room, the late receipt was due to mishandling by the government.

Specifically, the protester argues that the agency did not advise offerors that, generally, mail carriers do not deliver directly to the bid room or that there were only two daily internal mail deliveries to the bid room. Alpha asserts that the exact markings needed on a package to expedite delivery were not explained, and that the descriptive words "Bid Room" included in the addresses should have alerted mailroom personnel that the packages contained a bid or proposal, and therefore, that priority handling was required.

The protester also argues, as to its proposal on RFP-CA78, that the delivery receipt indicates that delivery was attempted at 10:15 a.m. on January 10 and, because delivery could not be completed, the mailroom must have been closed or unattended. The protester argues that, had the mailroom been properly manned, its proposal would have been delivered to the bid room on the 1 p.m. run, and thus would have been received by 4 p.m. as required by the solicitation.

Finally, Alpha argues that it is in the best interests of the government to accept its proposals and that by disallowing its proposal, the agency is, in effect, "sole-sourcing" the items since only one offer was timely received in response to each solicitation.

It is the responsibility of the offeror to deliver its proposal to the proper place at the proper time, and late delivery generally requires that a proposal be rejected. Seer Publishing, Inc., B-237359, Feb. 12, 1990, 90-1 CPD ¶ 181. Here, both RFPs included by reference the standard late proposal clause, Federal Acquisition Regulation (FAR) § 52.215-10 (April 1984), which states that offers received at the "office" designated in the solicitation after the exact time specified for receipt will not be considered. Under this

regulation, a proposal which arrives late can only be considered if it is shown that the sole or paramount reason for the late receipt was government impropriety.^{1/}
Southeastern Enters., Inc., B-237867, Mar. 21, 1990, 90-1 CPD
¶ 314.

In this case, the RFPs specifically listed Building 410, South End, Bay K-30 as the depository for receipt of offers. In addition, the solicitations specifically instructed offerors what markings were required on a package to expedite delivery: each offeror was to mark the envelope with the solicitation number and the date and time for receipt of proposals. Here, the protester failed to mark its packages with this required information and, because the envelopes did not contain these markings, the agency personnel had no way of knowing that the envelopes contained proposals and required expedited handling. Pazo's Flying School, B-239863, June 18, 1990, 90-1 CPD ¶ 569. Under these circumstances, the agency's use of normal handling procedures was proper. Southeastern Enters., Inc., B-237867, supra.

Accordingly, since the protester contributed to the delay in delivery, its proposals properly were rejected as late.


We also find nothing in the record to support the protester's allegation that delivery of its proposal for RFP-CA78 was attempted at 10:15 a.m. on January 10. Indeed, the agency explains that the notation on the mailing receipt suggesting an attempted delivery at that time resulted from a postal clerk's error and actually indicates that Alpha's proposal was received in the Mechanicsburg Post Office at 10:15 a.m. According to the agency, the SPCC mailroom was open and attended from 6:30 a.m. to 3 p.m. on January 10.

Finally, regarding Alpha's suggestion that SPCC should accept its proposals because it is in the best interests of the government as only one other offer was received under each solicitation, we realize that by application of its late proposal rules the government at times may lose the benefit of proposals that offer terms more advantageous than those received timely. However, the purpose of the late proposal

1/ FAR § 52.215-10 now contains a specific exception for U.S. Postal Service Express Mail which states that a late proposal may be considered if it was mailed not later than 5 p.m. at the place of mailing 2 working days prior to the date specified for receipt of proposals. This December 1989 provision was not included in the RFP. In any event, the protester mailed its proposals by express mail only 1 day, rather than 2 days before the dates specified for receipt of proposals.

rules is to ensure that the government conducts its procurements so that fair and impartial treatment is guaranteed, and maintaining confidence in the competitive procurement system is of greater importance than the possible advantage to be gained by considering a late proposal in a single procurement. Phoenix Research Group, Inc., B-240840, Dec. 21, 1990, 90-2 CPD ¶ 514.

The protests are denied.


for James F. Hinchman
General Counsel